

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re REALPAGE, INC., RENTAL) Case No. 3:23-md-03071
SOFTWARE ANTITRUST LITIGATION) MDL No. 3071
(No II))

This Document Relates To:)
ALL CASES) BARRETT JOHNSTON MARTIN &
) GARRISON, LLC AND ROBBINS GELLER
) RUDMAN & DOWD LLP RESPONSE TO
) COMPETING MOTIONS FOR
) APPOINTMENT AS INTERIM LEAD
) CLASS COUNSEL AND INTERIM
) LIAISON CLASS COUNSEL

Barrett Johnston Martin & Garrison, LLC (“Barrett Johnston”) and Robbins Geller Rudman & Dowd LLP (“Robbins Geller”) respectfully submit that the redundancies and overlap contemplated by the competing applications underscore that the putative class and the Court will be best served by granting the Barrett Johnston and Robbins Geller’s motion.

In support of their applications, the competing movants raise two points which warrant a response. **First**, the competing movants assert that this case is so complicated that it necessitates a multi-tiered, overlapping leadership structure. The Watters Plaintiffs propose an eight law firm leadership structure – quarterbacked by two lead counsel together with five more law firms on a steering committee and yet another law firm serving as liaison counsel.¹ The Berger Montague PC, Hausfeld LLP, and Lieff Cabraser Heimann & Bernstein, LLP group proposes an even less efficient eight law firm leadership structure comprised of three lead counsel and four separate law firms serving on a steering committee.² The only thing streamlined about their proposal is the single law firm they propose to serve as liaison counsel at the behest of the seven other law firms.

Second, the competing movants each assert that their investigative efforts prior to the October 15, 2022 article published by *ProPublica* somehow favors them with respect to this Court’s leadership decision.³

¹ See Watters Plaintiffs’ Application to Appoint Scott+Scott Attorneys At Law LLP and Robbins Kaplan as Interim Co-Lead Class Counsel, Tricia Herzfeld as Liaison Counsel, and a Five Firm Plaintiffs’ Steering Committee (ECF 257) (“Scott+Scott & Robbins Kaplan Application”) at 1.

² See Plaintiffs’ Motion to Appoint Interim Counsel for the Multi-Family Plaintiff Class (ECF 258) (“Berger, Hausfeld, and Lieff Application”) at 1.

³ See Scott+Scott & Robbins Kaplan Application at 11; Berger, Hausfeld, and Lieff Application at 2-3, 12-13.

Barrett Johnston and Robbins Geller respectfully submit that neither of these points tip the scale in favor of the competing movants' application for leadership.

The Barrett Johnston and Robbins Geller proposed leadership structure offers the Court the most efficient and effective method of prosecuting this case. Put simply, though brought against multiple defendants, this case does not require an overwrought, multi-layered leadership structure.⁴ At its core, this is a case about anticompetitive behavior centered around RealPage, Inc.'s product offerings.⁵ As such, the class and the Court will benefit from an efficient, cost-effective leadership structure. The structure proposed by Barrett Johnston and Robbins Geller achieves that without compromising quality. Barrett Johnston and Robbins Geller propose a leadership structure that leverages the human and capital resources of two formidable firms while easing the decision-making process and avoiding the trappings and inefficiencies of a multi-layered leadership structure that make it difficult to avoid duplicative effort and workflows.⁶

Moreover, it is undisputed that no complaint was filed prior to the October 15, 2022 *ProPublica* investigative article, which publicly set out the primary facts that serve as the core of

⁴ Motion to Appoint Barrett Johnston Martin & Garrison, LLC and Robbins Geller Rudman & Dowd LLP as Interim Liaison Class Counsel and Interim Lead Class Counsel (ECF 260) at 2.

⁵ *Id.*

⁶ See, e.g., *In re Anthem, Inc. Data Breach Litig.*, No. 15-md-02617 (LHK) (N.D. Cal.), Hr'g Tr. (ECF 294) at 57-58. In *Anthem*, the court stated at the leadership hearing: "I was very disappointed to see that you need eight law firms to litigate this case. I think that's very inefficient and it makes me wonder whether you two firms don't have the resources or the expertise . . . to be lead Plaintiffs' counsel here, that you feel like you need the support of six additional law firms. . . ." *Id.* Thereafter, at the end of the case, the *Anthem* court expressed dismay that the appointed multi-layered leadership structure had led to the precise inefficiencies that the Court was initially concerned about, as billing for 53 law firms was submitted by lead counsel there for reimbursement of fees. See *In re Anthem, Inc. Data Breach Litig.*, 2018 WL 11195115 at *1-*3 (N.D. Cal. Feb. 2, 2018)(Special master appointed to examine "extensive" time submitted).

each complaint. In addition, it is presumed that each of the firms vying for leadership conducted an investigation before filing their clients' respective complaints. Having thought about a possibility of wrongdoing for months or years, and to have not filed until investigative journalists actually published the underlying facts of a defendant's wrongdoing does not support the competing movants' contention they should be appointed to lead this case.

For the foregoing reasons, Barrett Johnston and Robbins Geller respectfully request that the Court appoint Robbins Geller and Barrett Johnston as Interim Lead Class Counsel and Interim Liaison Class Counsel, respectively.

DATED: June 8, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing *Barrett Johnston Martin & Garrison, LLC and Robbins Geller Rudman & Dowd LLP Response to Competing Motions for Appointment as Interim Lead Class Counsel and Interim Liaison Class Counsel* was filed electronically and served via the CM/ECF system which will send notification to all attorneys of record.

DATED this 8th day of June, 2023.

s/ Jerry E. Martin
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